

Appl. No. 10/804,381
Atty. Docket No. 7892C
Amdt. dated 8/22/05
Reply to Office Action of 5/24/05
Customer No. 27752

REMARKS

Claim Status

Claims 1 - 20 are pending in the present application.

Claim 1 has been amended to include the limitation of Claim 6, which has been cancelled. Claims 7 and 9 have been amended to correct the dependency on amended Claim 1.

Claim 13 has been amended to correct a typographical error.

Claims 14 and 17 have been amended to recite the dispensing means is an absorbent article. Claims 15 and 18 have been cancelled. Claims 16 has been amended to recite specific absorbent articles. Support for these amendments can be found at page 4, lines 29-30.

No new matter is believed added by the claim amendments. No additional claims fee is believed due.

Rejection Under 35 USC §102(b)

Claims 1-3 and 10 were rejected under two separate 35 USC §102(b) references. This rejection is traversed because the rejected Claims have been amended to include the subject matter of Claim 6, which claim was not rejected under 35 USC 102(b). Accordingly, the Applicants respectfully submit that the Examiner's 35 USC 102(b) rejections are moot.

Rejection Under 35 USC §103(a) Over over US 6,562,801 to Johansson et al. in view of US 5,614,178 to Bloom or, alternatively over Johansson and Bloom in view of EP 297 828 to Charkoudian

Claims 3-9 and 11-20 have been rejected under 35 USC §103(a) as being unpatentable over US 6,562,801 to Johansson et al. (hereinafter Johansson) in view of US 5,614,178 to Bloom (hereinafter Bloom) or, alternatively over Johansson and Bloom in view of EP 297 828 (hereinafter Charkoudian). This rejection is traversed for the reasons shown below.

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Claim 1 has been amended so that in addition to comprising chitosan as a critical ingredient, the composition also comprises a release agent, wherein the release agent has very specific characteristics, namely wherein the release agent has a HLB value of at least about 3 and is selected from the group consisting of nonionic surfactants, polymeric surfactants, and mixtures thereof.

As noted by the Examiner, Johansson fails to teach "the release agent has a HLB value of at least about 3 and is selected from the group consisting of nonionic surfactants, polymeric surfactants, and mixtures thereof."

With respect to Claims 3-5, 7-9 and 11-13, which depend from Claim 1, the Applicants respectfully submit that the addition of Bloom does not establish a *prima facie* case of obviousness because there is no motivation to combine the two disparate references. While both may be directed to "topical compositions" as noted by the Examiner, there is otherwise no "nexus" that would link the two references. There is nothing in either of the two references that would prompt a skilled person to modify or combine either reference to achieve the claimed invention. In fact, the skilled person would be taught away from combining Johansson and Bloom. Johansson is directed to a topical barrier, while Bloom is directed to the topical administration of drugs. That is, the two compositions are directed to diametrically opposite end uses. The use of one would frustrate the objectives of the other. There is no reason the skilled person looking at Johansson as a barrier composition would be prompted to combine with Bloom that is directed to drug delivery. The objectives of the two references are at odds with one another.

The addition of Charkoudian does nothing to remove the lack of nexus between Johansson and Bloom. The skilled person, being taught away from combining Johansson and Bloom, would receive no additional motivation to combine from Charkoudian, which is itself does not teach, suggest, or disclose a skin care active comprising chitosan, which is key to the invention.

Therefore, there can be no motivation to combine or modify the cited references to achieve the claimed invention. The cited references are directed to opposite functions, so there can be no prompting of the skilled person to combine.

Accordingly, the Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 USC 103(a) of Claims 3-5, 7-9 and 11-14.

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With respect to Claims 14-20, Applicants have amended independent Claims 14 and 17 to be directed to dispensing from an absorbent article. Absorbent articles, as described in the present application at page 4, lines 29-30 are not taught or suggested in the cited references. As such, there can be no motivation to combine the cited references, and, in any event, if the references were combined all the claim limitations would not be taught.

Accordingly, the Applicants respectfully submit that, in light of the present amendments, independent Claims 14 and 17 and their respective dependent claims are allowable over the cited references. The Applicants respectfully request the rejection be withdrawn and the claims allowed.

Double Patenting

The Applicant remains committed to timely filing a terminal disclaimer upon notification of allowable subject matter.

Conclusion

In light of the above amendments and remarks, it is requested that the Examiner reconsider and withdraw the rejections. Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention from the applied references. In view of the foregoing, reconsideration of this application, and allowance of Claims 1-5, 7-14, 16, 17, 19, and 20 is respectfully requested.

Respectfully submitted,

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By


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